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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,846	11/04/2003	Motoki Kakui	50395-236	4038

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McDERMOTT, WILL & EMERY
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Washington, DC 20005-3096

EXAMINER	
HUGHES, DEANDRA M	

ART UNIT	PAPER NUMBER
3663	

MAIL DATE	DELIVERY MODE
08/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/699,846	Applicant(s) KAKUI, MOTOKI	
	Examiner Deandra M. Hughes	Art Unit 3663	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☒ Newly proposed or amended claim(s) 5 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 5.
Claim(s) objected to: 2.
Claim(s) rejected: 1-9 and 11.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


Deandra M. Hughes
Primary Examiner
Art Unit: 3663

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant argues the following:

- (A) "...a Raman amplified, dispersion comensating module 10 of DiGiovanni cannot be considered a Raman amplification pump module 20 according to the present independent claim 1." (end of pg. 7 to beginning of pg. 8);
- (B) "...Applicant's emphasize that there is no evidence of record that counter-pumps 16 or co-pumps 20 include a devie equivalent to the nonlinear medium 26 therein." (pg. 8, lines 9-10)
- (C) "...the element noted as a rectangular at ht right side of element 118 in Fig. 7 of DiGiovanni cannot be considered equivalent to the optical amplfier 32 in a Raman amplifier 10." (pg. 8, lines 11-12);
- (D) "it is unclear whether the Examiner is referring to figure 7 or figure 1." (pg. 8, last paragraph);
- (E) "It is submitted that a Fiber Bragg Grating (reflector) for pumps cannot be considered a light source for emitting light." (pg. 9, lines 7-8).
- (F) "A Raman amplification pump module according to the present invention is modularized and supplies broadband pump light, that is continuous pump light." (pg. 9, lines 13-15).
- (G) The light source of the prior art can not cause an optical parametric effect (pg. 10, lines 1-3).
- (H) "...the DCF2, element 114 in Fig. 7 of DiGiovanni is ussed for amplification and not for broadening the spectrum of pump..." pg. 10, lines 8-9.

Argument (A) is not persuasive because the Examiner considers the Raman pump module in figure 1 of Digovanni to be a Raman pump module.

Argument (B) is not persuasive because #114 is a HNLF, as Applicant clearly admits on pg. 8, last three lines.

Argument (C) is not persuasive because the Examiner admits that #118 is not a WDM via the 103(a) rejection on pg. 4 (note last 6 lines of the page).

Argument (D) is unpersuasive because the Examiner clearly identifies each figure with the appropriate references. When the Examiner switches figures, she indicates as much in the OA. Further, Applicant is required to considered to the reference in its entirety and distinguish the entire prior art reference from the instant applicant via appropriate claim language.

Argument (E) is unpersuasive because the Examiner never indicated #130 is a light source. Note the OA dated 6/19/07, pg. 4, lines 5-6.

Argument (F) is unpersuasive because broadband pump light is not claimed.

Argument (G) is persuasive. Consequently, claim 2 would be objected to as being dependent upon a rejected base claim in a subsequent office action.

Argument (H) is unpersuasive because "broadening the spectrum of pump" is not claimed.